

Applicant: JENKINS
Serial No: 10/760,095
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REMARKS

By this response, no claims have been amended, cancelled or newly added. Thus, claims 3-7, 9-13 and 15-17 remain pending. In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

Claims 3-7, 9-13 and 15-17 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,377,793. [Office Action, pg. 2]. Claims 3-7, 9-13 and 15-17 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,681,107. [Office Action, pg. 3].

Although Applicants do not necessarily agree with the rejections set forth by the Examiner, a terminal disclaimer is being filed herewith solely in an effort to expedite prosecution. Applicants further note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d (BNA) 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

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If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: November 15, 2007

Respectfully submitted,

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